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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/423,207	11/03/1999	THORBJORN ANDERSSON	027650-836	6484

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ROBERT S. SWECKER  
BURNS, DOANE, SWECKER & MATHIS, L.L.P.  
PO BOX 1404  
ALEXANDRIA, VA 22313-1404

EXAMINER
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PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 12/29/2003

22

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/423,207

Applicant(s)

ANDERSSON ET AL.

Examiner

Marc A Patterson

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1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### WITHDRAWN REJECTIONS

1. The 35 U.S.C. 112 second paragraph rejection of Claims 1 – 2 and 4, of record on page 2 of the previous Action, is withdrawn.

### REPEATED REJECTIONS

2. The 35 U.S.C. 102(b) rejection of Claims 1 and 4 as being anticipated by Heider (U.S. Patent 5,405,667), of record on page 2 of the previous Action, is repeated.

The 35 U.S.C. 103(a) rejection of Claim 3 as being unpatentable over Heider (U.S. Patent 5,405,667), of record on page 3 of the previous Action, is repeated.

### ANSWERS TO APPLICANT'S ARGUMENTS

3. Applicant's arguments regarding the 35 U.S.C. 112 second paragraph rejection of Claims 1 – 2 and 4, of record on page 2 of the previous Action, have been considered and have been found to be persuasive. The rejections are therefore withdrawn.

Applicant's arguments regarding the 35 U.S.C. 102(b) rejection of Claims 1 and 4 as being anticipated by Heider (U.S. Patent 5,405,667) and 35 U.S.C. 103(a) rejection of Claim 3 as being unpatentable over Heider (U.S. Patent 5,405,667), of record in the previous Action, have been carefully considered but have not been found to be persuasive for the reasons set forth below.

Applicant argues, on page 3 of Paper No. 21, that the label disclosed by Heider is not a wall structure, but rather a laminate which is attached to a wall structure. However, the disclosed

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laminate is also clearly a structure, and is bonded directly to the wall of a container (column 2, lines 20 – 31); the label is therefore a wall structure.

Applicant also argues, on page 3, that Heider fails to teach that the foamed layer must comprise a mixture of a first rigid polymer component and a second ductile polymer component and the outer layers must be the same as the rigid polymer of the foamed intermediate layer; Heider, Applicant argues, discloses that the each outer layer preferably comprises different materials from the other, one layer of a low density polyethylene and one of a different plastic. However, Heider teaches that, for the outer layers or the intermediate layer, it is equivalent to use high density polyethylene, low density polyethylene, medium density polyethylene or a mixture of the polyethylenes (column 4, lines 32 – 57). The foamed layer therefore comprises a mixture of a first rigid polymer component and a second ductile component (a mixture of high density polyethylene, low density polyethylene and medium density polyethylene; column 4, lines 32 – 57) and the outer layers are the same as the rigid polymer of the foamed intermediate layer (a mixture of high density polyethylene, low density polyethylene and medium density polyethylene; column 4, lines 32 – 57).

Applicant also argues, on page 4, that the recitation that various types of polyethylene can be used in the various layers of the label does not anticipate the specific selection of particular types of polyethylene for each of the respective layers of the wall structure. However, Heider discloses only three preferred polymers for the three layers: high density polyethylene, low density polyethylene and medium density polyethylene, or a mixture of these polyethylenes (column 4, lines 32 – 57). The disclosure therefore reads on a wall structure having three layers,

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each comprising a mixture of high density polyethylene, low density polyethylene and medium density polyethylene, and therefore anticipates it.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

#### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold

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Pyon, can be reached at (703) 308-4251. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.

*Marc Patterson*  
Art Unit 1772

*[Signature]*  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

12/22/03